

United States District Court  
Southern District of Texas  
FILED

JUN 03 1998

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

EDWARD ALCALA, et al.,

Plaintiffs,

vs.

ALEX PEREZ, in his official capacity as  
Sheriff of Cameron County, Texas and  
Cameron County, Texas,

Defendants.

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CIVIL ACTION NO. B-96-203

**PLAINTIFFS' FIRST AMENDED  
ORIGINAL COMPLAINT**

**JURY DEMAND**

**I. PRELIMINARY STATEMENT**

1. This is an action by employees of the Cameron County Sheriff's Department under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* and § 16(b). The plaintiff officers who include detention officers, investigators, patrol officers, and miscellaneous other officers of the Cameron County Sheriff's Department have worked many hours of overtime without compensation. As public employees, the plaintiffs are entitled to overtime pay compensatory time pay or straight time pay for all hours worked. The plaintiffs have been unlawfully denied their pay for hours worked either at straight time, time and a half overtime, or time and a half compensatory time. Plaintiffs herein demand all wages and overtime owed plus an equal amount as liquidated damages. This action is brought as a collective action under 216(b).



## **II. JURISDICTION**

2. This Court has jurisdiction of this cause under 29 U.S.C. § 216(b) Fair Labor Standards Act and 28 U.S.C. § 1331 federal question.

## **III. PARTIES**

3. Plaintiffs are employees and former employees:

Arabella Acosta  
Edward Alcala  
Victor Alvarado  
Guillermo Alvarez  
Joe Anzaldua III  
Joe Anzaldua IV  
Juan Manuel Aranda Jr.  
Roy Armendariz  
Andres Arreola  
Roel Arreola  
Antonio Arriaga  
Heriberto Avila  
Jose Balboa Jr.  
Emilio Balli  
Raul Banda  
Mike M. Barburena  
Armando Barbosa  
Cleo L. Beauford  
Bert M. Blanchard  
Jose Gilberto Blanco Jr.  
Rene J. Borrego  
Gilbert Briones  
Merced Burnias Jr.  
Luis Burrola  
Salvador G. Cabrera  
Bernardo Camacho  
Enrique Camarillo  
Juana Campbell

Daniel Campos  
Rolando Cano Jr.  
Amado Cantu  
Ernesto Cantu  
Juan Jose Canul  
Joseph J. Canul  
Rene Capistran  
Luciano Cardenas  
Miguel Cardenas  
Ignacio Casanova  
Guadalupe Castillo Sr.  
Guadalupe Castillo Jr.  
Jorge Castorena  
Johnny Cavazos  
Jose F. Cavazos Jr.  
Jose L. Cepeda  
Hector Cervantes  
Martha Cervantes  
Juan A. Cisneros  
Manuel Cisneros  
Marco A. Claire  
Alonzo Corona  
Juan N. Cortez  
Lucio M. Cortinas  
George Cruz  
Marian Culver  
Jaime Davalos  
Benito De La Cruz

Irma De La Garza  
Hortencia De La Pena  
Alfred De Los Santos  
Robert De Los Santos  
Cesar R. Diaz  
Domingo Diaz Jr.  
Robert Domanski  
Gregorio Escamilla  
Luis Esparza  
Nora Esparza  
Roberto Esparza Jr.  
Jimmy Espindola  
Raul Fernandez  
Agustin Flores  
Alejandro Flores  
Arturo Flores  
Celso Flores  
Ernesto Flores  
Ernesto G. Flores  
Gilbert Flores  
Juan J. Flores  
Mary Ann Flores  
John Frizzell  
Hector Galicia  
Hugo Galicia  
Abel G. Garcia  
Alex Garcia  
Fausta Garcia



George L. Garcia  
 Gregorio Garcia  
 Jose A. Garcia  
 Jose Luis Garcia  
 Jose R. Garcia  
 Maria De Jesus D. Garcia  
 Omar Garcia  
 Patricio M. Garcia  
 Pedro Garcia Jr.  
 Raul Garcia  
 Ricardo Garcia  
 Roy S. Garcia  
 San Juana Perez Garcia  
 Vidal Garcia  
 Eusebio Garza  
 Gerardo Garza Sr.  
 Jose Candelario Garza  
 Jose Carlos Garza  
 Manuel M. Garza  
 Pedro Garza  
 Rogelio Garza  
 Sabas Garza  
 Sophie Ann Garza  
 John A. Gilbert  
 Elida C. Gomez  
 Gilbert Gomez  
 Santos Gomez  
 Armando Gonzalez  
 David Gonzalez  
 Edmundo H. Gonzalez  
 Elizabeth Sosa Gonzalez  
 Francisco Gonzalez  
 George L. Gonzalez  
 Hector Javier Gonzalez  
 Homer Gonzalez  
 J.M. Gonzalez  
 Roberto L. Gonzalez  
 Sylvia Gonzalez  
 Thomas Gonzalez III

Roman A. Gracia  
 Joe Guajardo  
 Alfredo Guerra Jr.  
 Efrain Guerrero  
 Frank Guerrero  
 Alfredo Gutierrez  
 Jose T. Gutierrez Jr.  
 Martha Gutierrez  
 Martin Guzman  
 Javier Hernandez  
 Raul Hernandez  
 Xavier Lee Hernandez  
 Juan Herrera III  
 Mirosalva Herrera  
 Manuel Hinojosa III  
 Daniel Huerta  
 Dolores Benavides Ibarra  
 Robert D. Johnson  
 John F. Keener  
 Pernal Keener  
 Jorge R. Kowalski  
 Fermin Leal  
 Hector Leal  
 Mike A. Leinart  
 David Limon  
 Jose Longoria Jr.  
 Jose Garcia Longoria Jr.  
 Francisco Lopez  
 Jose Lopez  
 Robert Lopez  
 Victor Lopez  
 Guillermo M. Lozano III  
 Rodolfo Ismael Lozano  
 Fernando Lucio  
 Alfredo Luna  
 Luis Luna Jr.  
 Armando Maldonado  
 Cristina Maldonado  
 Rolando Mancilla

German Martin  
 Luis Gonzaga Martinez Jr.  
 Nat Martinez  
 Tomas G. Martinez  
 Jesus N. Medina  
 Ramiro Medrano  
 Rolando Medrano Sr.  
 Rolando Medrano Jr.  
 Wenceslado Melendez Jr.  
 Luis Alberto Mendieta  
 Juan Mendoza Jr.  
 Ramon Luis Michel  
 Lorenzo Molano  
 Jorge Moncada  
 Samuel Montemayor  
 Jose A. Montes  
 Jaime Munivez  
 Juan Munoz  
 Floyd Nelson  
 Jaime Nelson  
 Lelina Nieto  
 Martin Nieto  
 Manuel Nunez Jr.  
 Samuel Nunez  
 Roger Olsson  
 Joe Olvera  
 David Ortega Jr.  
 Isaias Padilla  
 Maria A. Padilla  
 Joe Paz  
 Javier Pena  
 Rosendo Pena  
 Abel Perez Jr.  
 Carlos R. Perez  
 David Perez Jr.  
 Raul Perez Jr.  
 Ricardo David Perez  
 Javier F. Pineda  
 Analicia G. Ponce



Antonio B. Ramirez  
Daniel Ramirez  
Jose Ramirez  
Ramiro Raya  
Andy Reed  
Reynaldo Rey  
Juan Reyna Jr.  
Juan G. Reyna  
Jose Angel Rivas Jr.  
Rolando Rivas  
Agustin Rivera Jr.  
Jose A. Rocha  
Alonzo Rodriguez  
Amadeo Rodriguez  
Feliza Rodriguez  
Juan Jose Rodriguez  
Juan Luis Rodriguez  
Raul E. Rodriguez  
Ricardo Rodriguez  
Robert Rodriguez Jr.  
Rogelio Rodriguez  
Jesus Rosas  
Jose Roberto Ruiz  
Roman Ruiz  
Joseph C. Saenz  
Belinda Salas  
Crispin G. Salazar  
Gilbert Salazar  
Omar Salazar  
Tomas Salazar  
Eduardo M. Sanchez  
Frank Sanchez  
John A. Sanchez  
Sylvia Ann Santillana  
Luis Humberto Shuete  
Roberto Silva  
Harry Stevens Jr.  
Armando Tenorio  
John Tomalenus

Abel E. Torrez III  
Antonio Torres  
Raul Torres Jr.  
Michael E. Trejo  
Albert Trevino Jr.  
Edmundo Trevino  
Edward Trevino  
Federico Trevino  
Hilda Trevino  
Juanita Trevino  
Raul Trevino  
Luis I. Valdez  
Cesar R. Valdes  
Dolores Y. Valle  
Martin A. Vallejo  
Jeffrey Frank Vancise  
Jimmy S. Vasquez Jr.  
Enedina Velasco  
Mario X. Vera  
Maria G. Vidal  
Conrado G. Villanueva III  
Isaias Villarreal Jr.  
Jose Villarreal Jr.  
Jose Arturo Villarreal Jr.  
Juan E. Villarreal  
Rodolfo Villarreal  
Terry Wayne Vinson  
Richard Allen Walker  
Walter L. Weaver  
James Woodard  
Jose Luis Yanez  
Elias Ybarra  
Horacio A. Zamora  
Joel Zamora  
Eduardo Zepeda  
Gilberto Zepeda  
Roy Zepeda

4. Defendant Omar Lucio and his predecessor are sued in their official capacities. The Sheriff and defendant Cameron County, Texas are an employer within the meaning of the Fair Labor Standards Act.

#### **IV. FACTS**

5. The plaintiffs are employees of the defendant within the meaning of the Fair Labor Standards Act.

6. Over the years, the defendants have had a policy or policies of failing to record hours worked in excess of the regularly assigned shift.

7. The defendants have failed to keep accurate time records for various categories of employees, including patrol officers, investigators, transportation officers, bailiffs and detention officers.

8. Defendants have not kept accurate records of hours worked as a matter of practice. Defendants records do not reflect the hours that plaintiffs have actually worked.

9. Defendants and its agents have knowingly and willfully failed to record time actually worked and have intentionally failed and refused to record what would have been compensatory time and a half.

10. Defendants have long been aware of the above problems regarding overtime hours and have failed to comply with federal laws regarding record keeping and compensation.



11. The defendants have operated their compensatory time program in such a manner as to deny the plaintiffs their straight time, compensatory time, or overtime pay for all hours worked.

12. The defendants have not paid the plaintiffs overtime wages in lieu of allowing plaintiffs to take their compensatory time off.

13. The defendants have prohibited the plaintiffs from taking compensatory time off and have denied their responsibility to pay overtime wages for all hours accumulated or to allow compensatory time.

14. The defendants engage in the following pattern and practices to deprive the plaintiffs of pay for all hours worked:

- a. purporting to place all employees on a salary basis when in fact all employees are paid on an hourly basis;
- b. failed to compensate investigators for the one half hour before shift and during lunch period when they are on call;
- c. failed to compensate employees who acted as reserve deputies;
- d. failed to compensate investigators for meetings and training held outside the regular shift;
- e. failed to compensate patrol deputies the thirty minutes worked before shift and for lunch periods on call and for time worked over shift;
- f. failed to compensate patrol deputies and detention officers for extra days worked on a shift change;

- g. failed to compensate patrol deputies for training time outside their regular shift;
- h. failed to fully compensate employees for transporting prisoners out of the county;
- i. failed to compensate detention officers for the fifteen minutes before and fifteen minutes after shift;
- j. failed to compensate detention officers for time spent performing head counts over the normal shift;
- k. failed to compensate detention officers for cell searches performed over the shift; and,
- l. failed to pay overtime pay for straight time for all hours employed in excess of 160 hours in a work period.

## **V. CAUSE OF ACTION**

15. Defendants have a pattern of depriving the plaintiffs overtime wages and compensatory time by means of various systemic practices all in violation of the Fair Labor Standards Act.

16. The Defendants' conduct and unlawful practices in regard to overtime and compensatory time affect all present and former employees in the same or similar manner thus making appropriate notice to the potential class of plaintiffs notifying them of the pendency of this action and allowing them an opportunity to opt into the case. This is an appropriate collective action under § 216(b).

17. Plaintiffs and all those similarly situated are entitled to their overtime pay in an amount which is one and one half time their current pay or in the case of an employee who



is no longer employed, one and one half times their hourly wage at the time of termination. Plaintiffs are also entitled to an equal amount in liquidated damages for the defendants' intentional willful and reckless disregard of the plaintiffs rights under the Fair Labor Standards Act.

**WHEREFORE**, plaintiffs pray that upon trial of this cause that judgment be entered awarding the plaintiffs:

1. Unpaid compensation for all hours worked in excess of forty hours at the rate of one and one half time their regular hourly wage;
2. An equal amount as liquidated damages as allowed under the Fair Labor Standards Act;
3. An injunction against further violations;
4. Pre and post judgment interest as provided by law;
5. Reasonable attorney's fees, costs and expenses as provided in the Fair Labor Standards Act; and,
6. Such other and further relief to which the plaintiffs may be entitled.

Respectfully submitted,

BY: George P. Powell  
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**CERTIFICATE OF SERVICE**

I, GEORGE P. POWELL, do hereby certify that on this the 2<sup>nd</sup> day of June, 1998, I caused to be mailed a true and correct copy of Plaintiffs' First Amended Original Complaint to defendants' attorney of record:

Mr. Richard O. Burst  
Legal Division Commissioners' Court  
964 E. Harrison St.  
Brownsville, TX 78520

  
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GEORGE P. POWELL